

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

DAVID F. EVANS, et al.,

Plaintiffs,

v.

CITY OF DURHAM, N.C., et al.,

Defendants.

Civil Action No. 1:07-CV-739

**PLAINTIFFS' CONSOLIDATED OPPOSITION TO DEFENDANTS'
MOTIONS TO DISMISS THE SECOND AMENDED COMPLAINT**

Plaintiffs respond as follows in opposition to Defendants' Motions To Dismiss the Second Amended Complaint and supporting briefs (Docket Nos. 117-121 & 123-128):

1. Pursuant to the Court's Order dated February 16, 2010 (Docket No. 115), Plaintiffs hereby incorporate by reference the following filings, and the points and authorities set forth therein, in opposition to the Motions To Dismiss:

- Plaintiffs' Consolidated Opposition to Defendants' Motions To Dismiss the First Amended Complaint (Docket No. 51);
- Plaintiffs' Brief Opposing the City of Durham's Motion for Partial Summary Judgment (Docket No. 83);
- Plaintiffs' Memorandum of Law in Opposition to Defendant Michael B. Nifong's Motion To Dismiss (Docket No. 92);
- Plaintiffs' Supplemental Brief Opposing Motions To Dismiss (Docket No. 107), which addresses *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009);
- Plaintiffs' Motion for Leave To File Second Amended Complaint, and Reply Brief in support of that motion (Docket Nos. 109 & 111); and
- Plaintiffs' Notice Concerning Dismissal of Pending United States Supreme Court Case (Docket No. 113), which addresses the dismissal after settlement of *Pottawattomie County, Iowa v. McGhee*, No. 08-1065.

2. As provided in the Court's Order of February 16, 2010 (*see* Docket No. 115, at 3), Plaintiffs will respond separately to the City of Durham's supplemental brief dated March 11, 2010 (Docket No. 128), and also incorporate this forthcoming response by reference in opposition to the Motions To Dismiss.

Dated: March 15, 2010

Respectfully submitted,

WILLIAMS & CONNOLLY LLP

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By: /s/ Charles Davant IV
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(* motion for special appearance
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CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2010, the foregoing **PLAINTIFFS'**
CONSOLIDATED OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS
THE SECOND AMENDED COMPLAINT was electronically filed with the Clerk of
the Court using the CM/ECF system, which will send notification of such filing to the
following:

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Counsel for Defendant City of Durham

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Counsel for Defendant Benjamin Himan

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